THE HON'BLE MR. JUSTICE V.V.S.RAO

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WRIT PETITION No.14033 of 2004

31.8.2005

Between:

1. Anant Prasad Laxminivas Ganeriwal

and another

… Petitioners

AND

1. State of Andhra Pradesh, represented by its Principal Secretary,

Revenue (Endowments) Department, Secretariat, Hyderabad

and six others.

… Respondents.

ORDER:

The petitioners herein assail the orders of the third respondent in R.P. Nos.70, 79 and 323 of 1999 dated 25.6.2004. The petitioners' ancestors constructed Sree Ramachandra temple at Sitarambagh, Hyderabad about a century ago. The father of the petitioners was managing the affairs of the temple as sole hereditary trustee in the entire institution. After his death, the first petitioner herein was recognized as sole hereditary trustee by the jurisdictional Deputy Commissioner (Registrar of Public Trusts), Amaravati. The trust was registered under Madhya Pradesh Public Trusts Act, 1951. Be that as it is, the temple was later registered under Hyderabad Endowments Regulations 1349F and after that under A.P. Hindu Religious Institutions and Endowments Act, 1966 (1966 Act, for brevity), which is deemed to be a registered religious institution even under A.P. Hindu Religious Institutions and Endowments Act, 1987 (1987 Act, for brevity).

The hereditary trusteeship stood abolished by 1987 Act. By reason of the judgment of Supreme Court in **Pannalal Bansilal Patil v. State of A.P.**, it is incumbent on the part of the competent officials of the Endowments department to recognize a person from the family of the founder of the institution for the purpose of appointing him as a member of the Board of Trustees and also appointing such person as a Chairman of the Board of Trustees.

After the judgment of the Supreme Court, the petitioners made applications to

the Assistant Commissioner (Twin Cities), Hyderabad seeking recognition as members of the founder's family of Sree Ramachandra temple. By proceedings dated 15.6.1998, the petitioners were recognized as members of the founder's family. Against the said proceedings the 6th respondent herein filed a revision petition being R.P.No.24 of 1999 before the third respondent. As it was filed with delay, the third respondent refused to condone the delay and dismissed R.P.No.24 of 1999. Be that as it is, 6th respondent again filed R.P.No.79 of 1999 and 7th respondent filed R.P.No.70 of 1999, before the third respondent under Section 92 of 1987 Act, challenging the proceedings of the Assistant Commissioner dated 15.6.1998. Both these revision petitions were rejected by the third respondent.

It appears that on an application moved by the 6th respondent, the first respondent initiated *suo motu* proceedings in R.P.No.323 of 1999. It is alleged that without hearing the petitioners, the first respondent allowed the application to implead the 6th respondent. There were other revision petitions also before the first respondent. By order dated 05.6.2003 in G.O.Rt.No.1032, the first respondent disposed of the writ petitions, assailing which, the petitioners filed W.P.No.15396 of 2003. This Court by an order dated 25.9.2003 modified the impugned G.O. and restored R.P.Nos.70 and 79 of 1999 filed by 6th and 7th respondents to the file of the third respondent with a direction to dispose of the Revision Petitions within a period of three months.

After remand, the third respondent passed impugned order on 25.6.2004 directing the Deputy Commissioner having jurisdiction to enquire into the matter and decide the question of member of the founder's family. While doing so, the proceedings of the Assistant Commissioner dated 15.6.1998 recognising the petitioners as members of founder's family was set aside.

The learned Senior Counsel for the petitioners, Sri S.R.Ashok, contended that this Court in W.P.No.15396 of 2003 directed the Regional Joint Commissioner to dispose of the Revision Petitions within a period of three months and therefore, it is not proper for the third respondent to send back the matter to the Deputy Commissioner to decide the issue. Various other contentions are also raised, but having regard to the amendment made to Section 87(1) of 1987 Act, this Court is not inclined to go into their submissions.

After the judgment of the Supreme Court in **Pannalal Bansilal Patil v. State of A.P.** (supra), the Commissioner of Endowments issued circular designating jurisdictional Assistant Commissioner of Endowments to consider claims of persons for recognition as members of founder's family. At the relevant time, the Assistant Commissioner was competent to decide such claims by reason of circular issued by the Commissioner. However, by reason of amendment Act 27 of 2002, Clause (h) was inserted in subsection (1) of Section 87 of 1987 Act conferring power on the Deputy Commissioner having jurisdiction to enquire into and decide any dispute as to the question whether a person is a founder or a member of the founder's family of an institution or endowment. Whether it is Commissioner of Endowments, Regional Joint Commissioner, Deputy Commissioner or Assistant Commissioner, they cannot

ignore Section 87(1)(h) of 1987 Act. The directions issued by this Court in its order dated 25.9.2003 in W.P.No.15396 of 2003 have to be understood in the light of this. For the purpose of clarity, however, the observations made by the learned Judge of this Court are extracted hereunder:

> Under these circumstances, the impugned order is modified to the effect that the revisions filed by respondents 5 and 6 before the 1st respondent shall stand allowed and the applications for condition of delay filed by them in R.P.Nos.79 and 70 of 1999 shall stand ordered. Consequently, R.P.Nos.79 and 70 of 1999 shall stand restored to the file of the 3rd respondent, with the delay having been condoned. Since R.P.Nos.79 and 70 of 1999 filed against the orders dated 15.6.1998 are restored, the *suo motu* revision being R.P.No.323 of 1999 becomes almost academic. The same shall be heard and dealt with along with R.P.Nos.79 and 70 of 1999. Having regard to the fact that the matters are pending since last several years, it is directed that the 3rd respondent shall dispose of these revisions within a period of 3 months from the date of receipt of a copy of this order, duly putting the concerned parties on notice. If any of the parties adopts any tactics to delay the proceedings, it shall be open to the 3rd respondent to draw an inference that they are trying to protract the proceedings and pass appropriate orders.

After reading the above observations, it is not possible to countenance the submission of the learned Senior Counsel that this Court directed the third respondent to dispose of the Revision Petitions on merits considering the rival claims. When the third respondent disposed of the Revision Petitions before him by directing the Deputy Commissioner to decide the question under Section 87(1)(h) of 1987 Act, it would not be proper to contend that there is no disposal at all. The reading of the judgment of this Court also does not indicate that this Court approved or confirmed the proceedings of the Assistant Commissioner dated 15.6.1998 whereby and whereunder the petitioners were recognized as members of the founder's family in accordance with the relevant executive instructions at that time. When the same proceedings were under challenge in the revision under Section 92 of 1987 Act and at relevant time, the jurisdiction vested in the Deputy Commissioner, the remand made by the third respondent to the Deputy Commissioner cannot be faulted. If the matter is again sent back to the Assistant Commissioner, it would amount to sending back the matter to an authority without jurisdiction. Similarly if the Joint Commissioner has decided the matter, it would have suffered for want of jurisdiction. Therefore, this Court does not find any infirmity in the impugned order.

It is brought to the notice of this Court by the learned Counsel for the petitioners that after the death of the petitioners' grand father, petitioners' father late Laxminivas Ganeriwal was recognized as sole hereditary trustee under relevant Hindu Endowments Regulations. It is also brought to the notice of this Court that after the death of Laxminivas Ganeriwal, the petitioners have been managing the properties of the temple and this is a fact, which weighed with the Assistant Commissioner when he decided the mater in June 1998. Therefore it would be proper, in the interest of the institution, to allow both the petitioners to manage the

affairs of Sree Ramachandra temple, Sitarambagh, Hyderabad. The *status quo* should continue till the matter is finally decided by the Deputy Commissioner under Section 87(1)(h) of 1987 Act. The Deputy Commissioner of Endowments, the fourth respondent herein, is directed to dispose of the claim of the petitioners for being recognized them as members of founder's family after giving notice to the respondents, and other claims, within a period of three months from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is, accordingly, disposed of. No costs.

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(V.V.S.RAO, J)

August 31, 2005.

NOTE:

Dispatch copy of the order

within one week.

(B/o)

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